

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

DSB OAKGLEN, LP,)
v. Plaintiff,) Case No. 16-cv-02-KEW
SCOTTSDALE INSURANCE COMPANY,) (formerly Pontotoc County
Defendant.) Case No. CJ-2015-206)

NOTICE OF REMOVAL

Defendant, Scottsdale Insurance Company (“Scottsdale”) hereby submits its Notice of Removal of this action to the United States District Court for the Eastern District of Oklahoma. Pursuant to L.Cv.R. 81.2, a copy of the state court docket sheet and a copy of all documents filed in the state court action are attached hereto as **EXHIBITS 1 - 3**. This Defendant has neither received nor filed any other pleadings or papers in this case.

The basis of this removal is that the amount in controversy exceeds the jurisdictional amount required by 28 U.S.C. §1332, and that diversity exists between Plaintiff and Scottsdale, the sole Defendant in this action. In further support of this Notice, Scottsdale submits the following:

1. Plaintiff is a Limited Partnership organized under the laws of the state of Texas. Upon information and belief, the Managing Partner of Plaintiff is Borin Ean, who resides in the State of Texas.
2. The premises insured under the insurance policy which is the subject of this dispute is located in Pontotoc County, Oklahoma.
3. Scottsdale is an Ohio corporation with its principal place of business in Scottsdale, Arizona.

4. This lawsuit arises out of a claim for insurance proceeds for alleged damage to the subject insured premises. The property which is the subject of this dispute is located in Pontotoc County, Oklahoma (*i.e.*, within the Eastern District of Oklahoma).

5. According to paragraphs 14 and 15 of Plaintiff's Petition, Plaintiff seeks on the contract claim an amount in excess of \$600,000. Further, with regard to the "bad faith" claim, Plaintiff states in paragraph 30 of the Petition that it seeks punitive damages in an amount "in excess of the amount required for diversity jurisdiction." Thus, the amount in controversy exceeds the jurisdictional threshold for removal to federal court.

6. Pursuant to state statute, Plaintiff served Scottsdale through the Oklahoma Insurance Department which sent the Summons and Petition to Scottsdale on December 14, 2015, and which was received by Scottsdale on December 15, 2015. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b).

7. In summary, Plaintiff has alleged damages in excess of \$75,000.00, and this conflict involves parties who reside in different states. Thus, removal jurisdiction exists pursuant to 28 U.S.C. §1441(a) on the basis that the federal court has diversity jurisdiction under 28 U.S.C. §1332. At the time of this removal, there are no pending motions in the Pontotoc County District Court.

8. Pursuant to 28 U.S.C. §1446(d), written notice of the filing of this Notice of Removal will be served on counsel for Plaintiff, and a copy of this Notice of Removal will be filed with the Clerk of the District Court of Pontotoc County, State of Oklahoma.

Respectfully submitted,

s/R. Thompson Cooper

R. Thompson Cooper, OBA No. 15746
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ATTORNEYS FOR DEFENDANT,
SCOTTSDALE INSURANCE COMPANY

CERTIFICATE OF SERVICE

This certifies that, on January 4, 2016, the above and foregoing instrument was delivered to the following counsel of record:

J. Drew Houghton
FOSHEE & YAFFE
Post Office Box 890420
Oklahoma City, Oklahoma 73189

VIA CERTIFIED MAIL

– and –

Patrick C. McGinnis
MERLIN LAW GROUP
Three Riverway, Suite 701
Houston, Texas 77056

Pursuant to 28 U.S.C. §1446(d), a copy of the foregoing notice has also been sent to:

Ms. Karen Dunnigan
Pontotoc County Court Clerk
120 West 13th Street
Ada, Oklahoma 74820

VIA CERTIFIED MAIL

s/R. Thompson Cooper
For the Firm